



Sen. Mattie Hunter

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LRB094 11216 DRJ 44799 a

1 AMENDMENT TO SENATE BILL 1838

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1838 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Elder Abuse and Neglect Act is amended by  
5 changing Sections 2, 4, 5, 8, 9, and 13 and by adding Section  
6 8.5 as follows:

7 (320 ILCS 20/2) (from Ch. 23, par. 6602)

8 Sec. 2. Definitions. As used in this Act, unless the  
9 context requires otherwise:

10 (a) "Abuse" means causing any physical, mental or sexual  
11 injury to an eligible adult, including exploitation of such  
12 adult's financial resources.

13 Nothing in this Act shall be construed to mean that an  
14 eligible adult is a victim of abuse or neglect for the sole  
15 reason that he or she is being furnished with or relies upon  
16 treatment by spiritual means through prayer alone, in  
17 accordance with the tenets and practices of a recognized church  
18 or religious denomination.

19 Nothing in this Act shall be construed to mean that an  
20 eligible adult is a victim of abuse because of health care  
21 services provided or not provided by licensed health care  
22 professionals.

23 (a-5) "Abuser" means a person who abuses, neglects, or  
24 financially exploits an eligible adult.

1 (a-7) "Caregiver" means a person who either as a result of  
2 a family relationship, voluntarily, or in exchange for  
3 compensation has assumed responsibility for all or a portion of  
4 the care of an eligible adult who needs assistance with  
5 activities of daily living.

6 (b) "Department" means the Department on Aging of the State  
7 of Illinois.

8 (c) "Director" means the Director of the Department.

9 (d) "Domestic living situation" means a residence where the  
10 eligible adult lives alone or with his or her family or a  
11 caregiver, or others, or a board and care home or other  
12 community-based unlicensed facility, but is not:

13 (1) A licensed facility as defined in Section 1-113 of  
14 the Nursing Home Care Act;

15 (2) A "life care facility" as defined in the Life Care  
16 Facilities Act;

17 (3) A home, institution, or other place operated by the  
18 federal government or agency thereof or by the State of  
19 Illinois;

20 (4) A hospital, sanitarium, or other institution, the  
21 principal activity or business of which is the diagnosis,  
22 care, and treatment of human illness through the  
23 maintenance and operation of organized facilities  
24 therefor, which is required to be licensed under the  
25 Hospital Licensing Act;

26 (5) A "community living facility" as defined in the  
27 Community Living Facilities Licensing Act;

28 (6) A "community residential alternative" as defined  
29 in the Community Residential Alternatives Licensing Act;  
30 and

31 (7) A "community-integrated living arrangement" as  
32 defined in the Community-Integrated Living Arrangements  
33 Licensure and Certification Act.

34 (e) "Eligible adult" means a person 60 years of age or

1 older who resides in a domestic living situation and is, or is  
2 alleged to be, abused, neglected, or financially exploited by  
3 another individual.

4 (f) "Emergency" means a situation in which an eligible  
5 adult is living in conditions presenting a risk of death or  
6 physical, mental or sexual injury and the provider agency has  
7 reason to believe the eligible adult is unable to consent to  
8 services which would alleviate that risk.

9 (f-5) "Mandated reporter" means any of the following  
10 persons while engaged in carrying out their professional  
11 duties:

12 (1) a professional or professional's delegate while  
13 engaged in: (i) social services, (ii) law enforcement,  
14 (iii) education, (iv) the care of an eligible adult or  
15 eligible adults, or (v) any of the occupations required to  
16 be licensed under the Clinical Psychologist Licensing Act,  
17 the Clinical Social Work and Social Work Practice Act, the  
18 Illinois Dental Practice Act, the Dietetic and Nutrition  
19 Services Practice Act, the Marriage and Family Therapy  
20 Licensing Act, the Medical Practice Act of 1987, the  
21 Naprapathic Practice Act, the Nursing and Advanced  
22 Practice Nursing Act, the Nursing Home Administrators  
23 Licensing and Disciplinary Act, the Illinois Occupational  
24 Therapy Practice Act, the Illinois Optometric Practice Act  
25 of 1987, the Pharmacy Practice Act of 1987, the Illinois  
26 Physical Therapy Act, the Physician Assistant Practice Act  
27 of 1987, the Podiatric Medical Practice Act of 1987, the  
28 Respiratory Care Practice Act, the Professional Counselor  
29 and Clinical Professional Counselor Licensing Act, the  
30 Illinois Speech-Language Pathology and Audiology Practice  
31 Act, the Veterinary Medicine and Surgery Practice Act of  
32 2004, and the Illinois Public Accounting Act;

33 (2) an employee of a vocational rehabilitation  
34 facility prescribed or supervised by the Department of

1 Human Services;

2 (3) an administrator, employee, or person providing  
3 services in or through an unlicensed community based  
4 facility;

5 (4) a Christian Science Practitioner;

6 (5) field personnel of the Department of Public Aid,  
7 Department of Public Health, and Department of Human  
8 Services, and any county or municipal health department;

9 (6) personnel of the Department of Human Services, the  
10 Guardianship and Advocacy Commission, the State Fire  
11 Marshal, local fire departments, the Department on Aging  
12 and its subsidiary Area Agencies on Aging and provider  
13 agencies, and the Office of State Long Term Care Ombudsman;

14 (7) any employee of the State of Illinois not otherwise  
15 specified herein who is involved in providing services to  
16 eligible adults, including professionals providing medical  
17 or rehabilitation services and all other persons having  
18 direct contact with eligible adults;

19 (8) a person who performs the duties of a coroner or  
20 medical examiner; or

21 (9) a person who performs the duties of a paramedic or  
22 an emergency medical technician.

23 (g) "Neglect" means another individual's failure to  
24 provide an eligible adult with or willful withholding from an  
25 eligible adult the necessities of life including, but not  
26 limited to, food, clothing, shelter or medical care. This  
27 subsection does not create any new affirmative duty to provide  
28 support to eligible adults. Nothing in this Act shall be  
29 construed to mean that an eligible adult is a victim of neglect  
30 because of health care services provided or not provided by  
31 licensed health care professionals.

32 (g-5) "Protective services" means services to protect an  
33 eligible adult from further occurrences of abuse,  
34 self-neglect, neglect, or financial exploitation. Such

1 services may include, but are not limited to, protective  
2 supervision, placement, and in-home or community-based  
3 services.

4 (h) "Provider agency" means any public or nonprofit agency  
5 in a planning and service area appointed by the regional  
6 administrative agency with prior approval by the Department on  
7 Aging to receive and assess reports of alleged or suspected  
8 abuse, neglect, or financial exploitation.

9 (i) "Regional administrative agency" means any public or  
10 nonprofit agency in a planning and service area so designated  
11 by the Department, provided that the designated Area Agency on  
12 Aging shall be designated the regional administrative agency if  
13 it so requests. The Department shall assume the functions of  
14 the regional administrative agency for any planning and service  
15 area where another agency is not so designated.

16 (i-5) "Self-neglect" means an eligible person's failure,  
17 without respect to cause, to perform essential self-care tasks,  
18 including, but not limited to: providing essential food  
19 clothing, shelter, and medical care; and obtaining goods and  
20 services necessary to maintain physical health or mental  
21 health.

22 (j) "Substantiated case" means a reported case of alleged  
23 or suspected abuse, neglect, or financial exploitation in which  
24 a provider agency, after assessment, determines that there is  
25 reason to believe abuse, neglect, or financial exploitation has  
26 occurred.

27 (Source: P.A. 92-16, eff. 6-28-01; 93-281 eff. 12-31-03;  
28 93-300, eff. 1-1-04; revised 9-22-03.)

29 (320 ILCS 20/4) (from Ch. 23, par. 6604)

30 Sec. 4. Reports of abuse or neglect.

31 (a) Any person who suspects the abuse, self-neglect,  
32 neglect, or financial exploitation of an eligible adult may  
33 report this suspicion to an agency designated to receive such

1 reports under this Act or to the Department.

2 (a-5) If any mandated reporter has reason to believe that  
3 an eligible adult, ~~who because of dysfunction is unable to seek~~  
4 ~~assistance for himself or herself,~~ has, within the previous 12  
5 months, been subjected to abuse, self-neglect, neglect, or  
6 financial exploitation, the mandated reporter shall, within 24  
7 hours after developing such belief, report this suspicion to an  
8 agency designated to receive such reports under this Act or to  
9 the Department. Whenever a mandated reporter is required to  
10 report under this Act in his or her capacity as a member of the  
11 staff of a medical or other public or private institution,  
12 facility, board and care home, or agency, he or she shall make  
13 a report to an agency designated to receive such reports under  
14 this Act or to the Department in accordance with the provisions  
15 of this Act and may also notify the person in charge of the  
16 institution, facility, board and care home, or agency or his or  
17 her designated agent that the report has been made. Under no  
18 circumstances shall any person in charge of such institution,  
19 facility, board and care home, or agency, or his or her  
20 designated agent to whom the notification has been made,  
21 exercise any control, restraint, modification, or other change  
22 in the report or the forwarding of the report to an agency  
23 designated to receive such reports under this Act or to the  
24 Department. The privileged quality of communication between  
25 any professional person required to report and his or her  
26 patient or client shall not apply to situations involving  
27 abused, self-neglected, neglected, or financially exploited  
28 eligible adults and shall not constitute grounds for failure to  
29 report as required by this Act.

30 (a-7) A person making a report under this Act in the belief  
31 that it is in the alleged victim's best interest shall be  
32 immune from criminal or civil liability or professional  
33 disciplinary action on account of making the report,  
34 notwithstanding any requirements concerning the

1 confidentiality of information with respect to such eligible  
2 adult which might otherwise be applicable.

3 (a-9) Law enforcement officers shall continue to report  
4 incidents of alleged abuse pursuant to the Illinois Domestic  
5 Violence Act of 1986, notwithstanding any requirements under  
6 this Act.

7 (b) Any person, institution or agency participating in the  
8 making of a report, providing information or records related to  
9 a report, assessment, or services, or participating in the  
10 investigation of a report under this Act in good faith, or  
11 taking photographs or x-rays as a result of an authorized  
12 assessment, shall have immunity from any civil, criminal or  
13 other liability in any civil, criminal or other proceeding  
14 brought in consequence of making such report or assessment or  
15 on account of submitting or otherwise disclosing such  
16 photographs or x-rays to any agency designated to receive  
17 reports of alleged or suspected abuse or neglect. Any person,  
18 institution or agency authorized by the Department to provide  
19 assessment, intervention, or administrative services under  
20 this Act shall, in the good faith performance of those  
21 services, have immunity from any civil, criminal or other  
22 liability in any civil, criminal, or other proceeding brought  
23 as a consequence of the performance of those services. For the  
24 purposes of any civil, criminal, or other proceeding, the good  
25 faith of any person required to report, permitted to report, or  
26 participating in an investigation of a report of alleged or  
27 suspected abuse, neglect, or financial exploitation shall be  
28 presumed.

29 (c) The identity of a person making a report of alleged or  
30 suspected abuse or neglect under this Act may be disclosed by  
31 the Department or other agency provided for in this Act only  
32 with such person's written consent or by court order.

33 (d) The Department shall by rule establish a system for  
34 filing and compiling reports made under this Act.

1 (e) Any physician who willfully fails to report as required  
2 by this Act shall be referred to the Illinois State Medical  
3 Disciplinary Board for action in accordance with subdivision  
4 (A) (22) of Section 22 of the Medical Practice Act of 1987. Any  
5 dentist or dental hygienist who willfully fails to report as  
6 required by this Act shall be referred to the Department of  
7 Professional Regulation for action in accordance with  
8 paragraph 19 of Section 23 of the Illinois Dental Practice Act.  
9 Any other mandated reporter required by this Act to report  
10 suspected abuse, neglect, or financial exploitation who  
11 willfully fails to report the same is guilty of a Class A  
12 misdemeanor.

13 (Source: P.A. 93-300, eff. 1-1-04; 93-301, eff. 1-1-04.)

14 (320 ILCS 20/5) (from Ch. 23, par. 6605)

15 Sec. 5. Procedure.

16 (a) A provider agency designated to receive reports of  
17 alleged or suspected abuse, neglect, or financial exploitation  
18 under this Act shall, and in the case of self-neglect may, upon  
19 receiving such a report, conduct a face-to-face assessment with  
20 respect to such report. The assessment shall include, but not  
21 be limited to, a visit to the residence of the eligible adult  
22 who is the subject of the report and may include interviews or  
23 consultations with service agencies or individuals who may have  
24 knowledge of the eligible adult's circumstances. If, after the  
25 assessment, the provider agency determines that the case is  
26 substantiated it shall develop a service care plan for the  
27 eligible adult. In developing the plan, the provider agency may  
28 consult with any other appropriate provider of services, and  
29 such providers shall be immune from civil or criminal liability  
30 on account of such acts. The plan shall include alternative  
31 suggested or recommended services which are appropriate to the  
32 needs of the eligible adult and which involve the least  
33 restriction of the eligible adult's activities commensurate

1 with his or her needs. Only those services to which consent is  
2 provided in accordance with Section 9 of this Act shall be  
3 provided, contingent upon the availability of such services.

4 (b) A provider agency shall refer evidence of crimes  
5 against an eligible adult to the appropriate law enforcement  
6 agency according to Department policies. A referral to law  
7 enforcement may be made at intake or any time during the case.  
8 Where a provider agency has reason to believe the death of an  
9 eligible adult may be the result of abuse or neglect, the  
10 agency shall immediately report the matter to the coroner or  
11 medical examiner and shall cooperate fully with any subsequent  
12 investigation.

13 A provider agency shall develop a protocol in conjunction  
14 with and with the assistance of the M-Team required under  
15 Department requirements.

16 (c) If any person refuses to allow the provider agency to  
17 begin an investigation, interferes with the provider agency's  
18 ability to conduct an investigation, or refuses to give access  
19 to an eligible adult, the appropriate law enforcement agency  
20 may be contacted to assist in the investigation.

21 (d) A representative of a provider agency or a law  
22 enforcement officer, while investigating a report of alleged or  
23 suspected abuse, self-neglect, neglect, or financial  
24 exploitation, may take or cause to be taken photographs,  
25 videotapes, and digital or electronic recordings of the  
26 eligible adult, and of his or her environment, that are  
27 relevant to the investigation. All photographs, videotapes,  
28 and digital or electronic recordings taken during the course of  
29 the investigation are to be treated as records and shall be  
30 used only as other records are allowed to be used under this  
31 Act.

32 (e) If a provider agency has reason to believe that records  
33 not in its possession would be of assistance in an  
34 investigation of suspected abuse, self-neglect, neglect, or

1 financial exploitation under this Act, then the provider agency  
2 may petition the chief judge, or another judge designated by  
3 the chief judge, of the judicial circuit in which the eligible  
4 adult resides for the issuance of a subpoena to the holder of  
5 the records sought by the provider agency. Upon a showing by  
6 the provider agency that the records are relevant to the  
7 investigation and upon notice to the holder of the records and  
8 notice to the eligible adult or his or her guardian, the court  
9 shall direct that a subpoena shall issue to the holder of the  
10 records. All records disclosed pursuant to a subpoena issued  
11 under this Section shall be treated as records under Section 8  
12 of this Act.

13 (Source: P.A. 90-628, eff. 1-1-99.)

14 (320 ILCS 20/8) (from Ch. 23, par. 6608)

15 Sec. 8. Access to records. All records concerning reports  
16 of elder abuse, neglect, and financial exploitation and all  
17 records generated as a result of such reports shall be  
18 confidential and shall not be disclosed except as specifically  
19 authorized by this Act or other applicable law. Access to such  
20 records, but not access to the identity of the person or  
21 persons making a report of alleged abuse, neglect, or financial  
22 exploitation as contained in such records, shall be allowed to  
23 the following persons and for the following persons:

24 (1) Department staff, provider agency staff, other aging  
25 network staff, and regional administrative agency staff in the  
26 furtherance of their responsibilities under this Act or the  
27 Illinois Act on the Aging;

28 (2) A law enforcement agency investigating known or  
29 suspected elder abuse, neglect, or financial exploitation.  
30 Where a provider agency has reason to believe that the death of  
31 an eligible adult may be the result of abuse or neglect, the  
32 agency shall immediately provide the appropriate law  
33 enforcement agency with all records pertaining to the eligible

1 adult;

2 (3) A physician who has before him or her or who is  
3 involved in the treatment of an eligible adult whom he or she  
4 reasonably suspects may be abused, neglected, or financially  
5 exploited or who has been referred to the Elder Abuse and  
6 Neglect Program;

7 (4) An eligible adult reported to be abused, neglected, or  
8 financially exploited, or such adult's guardian unless such  
9 guardian is the abuser or the alleged abuser;

10 (5) A court or a guardian ad litem, upon its or his or her  
11 finding that access to such records may be necessary for the  
12 determination of an issue before the court. However, such  
13 access shall be limited to an in camera inspection of the  
14 records, unless the court determines that disclosure of the  
15 information contained therein is necessary for the resolution  
16 of an issue then pending before it;

17 (6) A grand jury, upon its determination that access to  
18 such records is necessary in the conduct of its official  
19 business;

20 (7) Any person authorized by the Director, in writing, for  
21 audit or bona fide research purposes;

22 (8) A coroner or medical examiner who has reason to believe  
23 that an eligible adult has died as the result of abuse,  
24 neglect, or financial exploitation. The provider agency shall  
25 immediately provide the coroner or medical examiner with all  
26 records pertaining to the eligible adult; ~~and~~

27 (9) Department of Professional Regulation staff and  
28 members of the Social Work Examining and Disciplinary Board in  
29 the course of investigating alleged violations of the Clinical  
30 Social Work and Social Work Practice Act by provider agency  
31 staff; and

32 (10) The State's Attorney of the judicial circuit in which  
33 the eligible adult resides or in which the alleged crime  
34 occurred or the Office of the Attorney General, or their

1 authorized representatives, after the law enforcement agency  
2 with jurisdiction over the matter opens a criminal  
3 investigation.

4 (Source: P.A. 89-387, eff. 8-20-95; 90-628, eff. 1-1-99.)

5 (320 ILCS 20/8.5 new)

6 Sec. 8.5. Cooperation with law enforcement agencies.

7 (a) Within one year after the effective date of this  
8 amendatory Act of the 94th General Assembly, the Department  
9 shall enter into working agreements with the jurisdictionally  
10 responsible county sheriff's office or local police department  
11 or, when applicable, both, that will be the lead law  
12 enforcement agency when conducting any criminal investigation  
13 arising from allegations of abuse, neglect, or financial  
14 exploitation of an eligible adult. The working agreements must  
15 specify how the requirements of this Act will be met.

16 (b) Within one year after the effective date of this  
17 amendatory Act of the 94th General Assembly, every provider  
18 agency shall develop and implement a protocol in conjunction  
19 and cooperation with the M-Team mandated under Department rules  
20 for its service area in regard to referral of information on  
21 cases of elder abuse and neglect, including instances of  
22 financial exploitation, to local law enforcement agencies. In  
23 addition to a process for referral between elder abuse provider  
24 agencies and local law enforcement agencies, the protocol shall  
25 provide for a review, at least quarterly, of cases investigated  
26 by the provider that were referred to a law enforcement agency  
27 and cases not referred to a law enforcement agency for  
28 appropriateness and recommendations for any considerations for  
29 change in which cases are referred.

30 (c) The Department and all provider agencies shall work  
31 with any law enforcement agency conducting any criminal  
32 investigation arising from allegations of abuse, neglect, or  
33 financial exploitation of an eligible adult. The Department,

1 all provider agencies, and law enforcement agencies shall  
2 cooperate to allow the criminal investigation to proceed  
3 concurrently with, and not be hindered by, any investigations  
4 conducted by provider agencies.

5 (d) Upon request of the law enforcement agency, the  
6 Department and all provider agencies shall provide, to any law  
7 enforcement agency conducting any criminal investigation  
8 arising from allegations of abuse, neglect, or financial  
9 exploitation of an eligible adult, all relevant information and  
10 records from provider agency investigations.

11 (e) Any law enforcement officer may make an arrest without  
12 a warrant if the officer has probable cause to believe that the  
13 person has committed or is committing any crime, including, but  
14 not limited to, criminal abuse or neglect of an elderly person  
15 under Section 12-21 of the Criminal Code of 1961 or a violation  
16 of an order of protection under Section 12-30 of the Criminal  
17 Code of 1961, even if the crime was not committed in the  
18 presence of the officer. The law enforcement officer may verify  
19 the existence of an order of protection under Section 12-30 of  
20 the Criminal Code of 1961 by telephone or radio communication  
21 with his or her law enforcement agency or by referring to the  
22 copy of the order provided by the petitioner or respondent.

23 (320 ILCS 20/9) (from Ch. 23, par. 6609)

24 Sec. 9. Authority to consent to services.

25 (a) If an eligible adult consents to services being  
26 provided according to the service care plan, such services  
27 shall be arranged to meet the adult's needs, based upon the  
28 availability of resources to provide such services. If an adult  
29 withdraws his or her consent or refuses to accept such  
30 services, the services shall not be provided, except as allowed  
31 under subsection (f) of this Section.

32 (b) If it reasonably appears to the Department or other  
33 agency designated under this Act that a person is an eligible

1 adult and lacks the capacity to consent to necessary services,  
2 including an assessment, the Department or other agency may  
3 seek the appointment of a guardian as provided in Article XIa  
4 of the Probate Act of 1975 for the purpose of consenting to  
5 such services.

6 (c) A guardian of the person of an eligible adult may  
7 consent to services being provided according to the service  
8 care plan. If a guardian withdraws his or her consent or  
9 refuses to allow services to be provided to the eligible adult,  
10 the Department, an agency designated under this Act, or the  
11 office of the Attorney General may request a court order  
12 seeking appropriate remedies, and may in addition request  
13 removal of the guardian and appointment of a successor  
14 guardian.

15 (d) If an emergency exists and the Department or other  
16 agency designated under this Act reasonably believes that a  
17 person is an eligible adult and lacks the capacity to consent  
18 to necessary services, the Department or other agency may  
19 request an ex parte order from the circuit court of the county  
20 in which the petitioner or respondent resides or in which the  
21 alleged abuse, neglect, or financial exploitation occurred,  
22 authorizing an assessment of a report of alleged or suspected  
23 abuse, neglect, or financial exploitation or the provision of  
24 necessary services, or both, including relief available under  
25 the Illinois Domestic Violence Act of 1986. Petitions filed  
26 under this subsection shall be treated as expedited  
27 proceedings. This subsection does not limit the actions allowed  
28 under subsection (f) of this Section.

29 (e) Within 15 days after the entry of the ex parte  
30 emergency order, the order shall expire, or, if the need for  
31 assessment or services continues, the provider agency shall  
32 petition for the appointment of a guardian as provided in  
33 Article XIa of the Probate Act of 1975 for the purpose of  
34 consenting to such assessment or services or to protect the

1 eligible adult from further harm.

2 (f) If the Department or a provider agency has reasonable  
3 cause to believe that an emergency exists, as "emergency" is  
4 defined in this Act, the Department or the provider agency may  
5 take action under this subsection. If the eligible adult has  
6 the capacity to consent and refuses to consent to protective  
7 services, emergency protective services may not be provided.

8 If, upon arrival at the residence or temporary residence of  
9 the eligible adult, (i) consent is not obtained for access to  
10 the eligible adult for purposes of conducting an investigation  
11 under this Act, (ii) the Department or provider agency has  
12 reason to believe that an emergency exists, as emergency is  
13 defined in this Act, and (iii) the situation presents a risk of  
14 death or serious physical or sexual injury, a representative of  
15 the Department or the provider agency and a law enforcement  
16 officer may forcibly enter the premises. If, after obtaining  
17 access to the eligible adult, it is determined through a  
18 personal assessment of the situation that no emergency exists  
19 and there is no basis for protective services intervention  
20 under this subsection, the Department, provider agency, and law  
21 enforcement officer shall terminate the emergency entry.

22 If a forcible entry under this subsection occurs and if,  
23 from the personal observations of the representative of the  
24 Department or the representative of the provider agency or the  
25 law enforcement officer, it is likely that the eligible adult  
26 will incur a risk of death or serious physical or sexual injury  
27 if such person is not immediately removed from the premises,  
28 then the representative of the Department or provider agency  
29 shall transport or arrange for the transportation of the  
30 eligible adult to an appropriate medical or protective services  
31 facility in order to provide protective services. Law  
32 enforcement personnel have a duty to transport when medical  
33 transportation is not available or needed and the eligible  
34 adult presents a threat of injury to self or others. If the

1 eligible adult's caregiver or guardian is present, the  
2 Department, provider agency, or law enforcement officer must  
3 seek the caregiver's or guardian's consent before the eligible  
4 adult may be removed from the premises, unless the Department,  
5 provider agency, or law enforcement officer suspects that the  
6 eligible adult's caregiver or guardian has caused the abuse or  
7 neglect. Within 24 hours after providing or arranging for  
8 emergency removal of the eligible adult, excluding Saturdays,  
9 Sundays, and legal holidays, the Department or provider agency  
10 shall petition for the appointment of a guardian as provided in  
11 Article XIa of the Probate Act of 1975 for the purposes of  
12 consenting to protective services.

13 If, upon an eligible adult's admission to a medical  
14 facility, it is the opinion of the medical staff that immediate  
15 medical treatment is necessary to prevent serious physical  
16 injury or death and that such treatment does not violate a  
17 health care advance directive prepared by the eligible adult  
18 and received by the medical staff, the medical facility may  
19 proceed with treatment of the eligible adult. If a person with  
20 legal authority to give consent for the provision of medical  
21 treatment to an eligible adult has not given or has refused to  
22 give such consent, examination and treatment must be limited to  
23 reasonable examination of the patient to determine the medical  
24 condition of the patient and treatment reasonably necessary to  
25 alleviate the emergency medical condition or to stabilize the  
26 patient pending court determination of a petition for the  
27 appointment of a guardian as provided in Article XIa of the  
28 Probate Act of 1975.

29 This Section does not limit in any way the authority of a  
30 court, a law enforcement agency, a State's Attorney, the Office  
31 of the Attorney General, or their authorized representatives or  
32 any other duly appointed official, to intervene in emergency  
33 circumstances under any other provision of law. This Section  
34 does not limit the authority of any person to file a petition

1 for guardianship.

2 (Source: P.A. 90-628, eff. 1-1-99.)

3 (320 ILCS 20/13)

4 Sec. 13. Access.

5 (a) The designated provider agencies shall have access to  
6 eligible adults who have been reported or found to be victims  
7 of abuse, neglect, or financial exploitation in order to assess  
8 the validity of the report, assess other needs of the eligible  
9 adult, and provide services in accordance with this Act.

10 (b) Where access to an eligible adult is denied, the Office  
11 of the Attorney General, the Department, or the provider agency  
12 may petition the court for an order to require appropriate  
13 access where:

14 (1) a caregiver or third party has interfered with the  
15 assessment or service plan, or

16 (2) the agency has reason to believe that the eligible  
17 adult is denying access because of coercion, extortion, or  
18 justifiable fear of future abuse, neglect, or financial  
19 exploitation.

20 (c) The petition for an order requiring appropriate access  
21 shall be afforded an expedited hearing in the circuit court.

22 (d) If the elder abuse provider agency has substantiated  
23 financial exploitation against an eligible adult, and has  
24 documented a reasonable belief that the eligible adult will be  
25 irreparably harmed as a result of the financial exploitation,  
26 the Office of the Attorney General, the Department, or the  
27 provider agency may petition for an order freezing the assets  
28 of the eligible adult. The petition shall be filed in the  
29 county or counties in which the assets are located. The court's  
30 order shall prohibit the sale, gifting, transfer, or wasting of  
31 the assets of the eligible adult, both real and personal, owned  
32 by, or vested in, the eligible adult, without the express  
33 permission of the court. The petition to freeze the assets of

1 the eligible adult shall be afforded an expedited hearing in  
2 the circuit court.

3 (e) This Section does not prohibit the actions authorized  
4 in subsection (f) of Section 9 of this Act.

5 (Source: P.A. 90-628, eff. 1-1-99.)

6 Section 10. The Criminal Code of 1961 is amended by  
7 changing Section 16-1.3 as follows:

8 (720 ILCS 5/16-1.3) (from Ch. 38, par. 16-1.3)

9 Sec. 16-1.3. Financial exploitation of an elderly person or  
10 a person with a disability.

11 (a) A person commits the offense of financial exploitation  
12 of an elderly person or a person with a disability when he or  
13 she stands in a position of trust or confidence with the  
14 elderly person or a person with a disability and he or she  
15 knowingly and by deception or intimidation obtains control over  
16 the property of an elderly person or a person with a disability  
17 or illegally uses the assets or resources of an elderly person  
18 or a person with a disability. The illegal use of the assets or  
19 resources of an elderly person or a person with a disability  
20 includes, but is not limited to, the misappropriation of those  
21 assets or resources by undue influence, breach of a fiduciary  
22 relationship, fraud, deception, extortion, or use of the assets  
23 or resources contrary to law.

24 Financial exploitation of an elderly person or a person  
25 with a disability is a Class 4 felony if the value of the  
26 property is \$300 or less, a Class 3 felony if the value of the  
27 property is more than \$300 but less than \$5,000, a Class 2  
28 felony if the value of the property is \$5,000 or more but less  
29 than \$100,000 and a Class 1 felony if the value of the property  
30 is \$100,000 or more or if the elderly person is over 70 years  
31 of age and the value of the property is \$15,000 or more or if  
32 the elderly person is 80 years of age or older and the value of

1 the property is \$5,000 or more.

2 (b) For purposes of this Section:

3 (1) "Elderly person" means a person 60 years of age or  
4 older.

5 (2) "Person with a disability" means a person who  
6 suffers from a ~~permanent~~ physical or mental impairment  
7 resulting from disease, injury, functional disorder or  
8 congenital condition that impairs the individual's mental  
9 or physical ability to independently manage his or her  
10 property or financial resources, or both.

11 (3) "Intimidation" means the communication to an  
12 elderly person or a person with a disability that he or she  
13 shall be deprived of food and nutrition, shelter,  
14 prescribed medication, ~~or~~ medical care and treatment, or  
15 contact with that person's family members or care provider.  
16 "Intimidation" also means the communication to an elderly  
17 person or a person with a disability that he or she will be  
18 unnecessarily moved from his or her current residence to  
19 another residence or to a facility.

20 (4) "Deception" means, in addition to its meaning as  
21 defined in Section 15-4 of this Code, a misrepresentation  
22 or concealment of material fact relating to the terms of a  
23 contract or agreement entered into with the elderly person  
24 or person with a disability or to the existing or  
25 pre-existing condition of any of the property involved in  
26 such contract or agreement; or the use or employment of any  
27 misrepresentation, false pretense or false promise in  
28 order to induce, encourage or solicit the elderly person or  
29 person with a disability to enter into a contract or  
30 agreement.

31 (c) For purposes of this Section, a person stands in a  
32 position of trust and confidence with an elderly person or  
33 person with a disability when he (1) is a parent, spouse, adult  
34 child or other relative by blood or marriage of the elderly

1 person or person with a disability, (2) is a joint tenant or  
2 tenant in common with the elderly person or person with a  
3 disability, (3) has a legal or fiduciary relationship with the  
4 elderly person or person with a disability, or (4) is a  
5 financial planning or investment professional.

6 (d) Nothing in this Section shall be construed to limit the  
7 remedies available to the victim under the Illinois Domestic  
8 Violence Act of 1986.

9 (e) Nothing in this Section shall be construed to impose  
10 criminal liability on a person who has made a good faith effort  
11 to assist the elderly person or person with a disability in the  
12 management of his or her property, but through no fault of his  
13 or her own has been unable to provide such assistance.

14 (f) It shall not be a defense to financial exploitation of  
15 an elderly person or person with a disability that the accused  
16 reasonably believed that the victim was not an elderly person  
17 or person with a disability.

18 (g) Civil Liability. A person who is charged by information  
19 or indictment with the offense of financial exploitation of an  
20 elderly person or person with a disability and who fails or  
21 refuses to return the victim's property within 60 days  
22 following a written demand from the victim or the victim's  
23 legal representative shall be liable to the victim or to the  
24 estate of the victim in damages of treble the amount of the  
25 value of the property obtained, plus reasonable attorney fees  
26 and court costs. The burden of proof that the defendant  
27 unlawfully obtained the victim's property shall be by a  
28 preponderance of the evidence. This subsection shall be  
29 operative whether or not the defendant has been convicted of  
30 the offense.

31 (Source: P.A. 92-808, eff. 8-21-02; 93-301, eff. 1-1-04.)".